

AMENDED IN ASSEMBLY JULY 1, 2015
AMENDED IN ASSEMBLY JUNE 29, 2015
AMENDED IN SENATE APRIL 21, 2015

SENATE BILL

No. 467

Introduced by Senator Hill

February 25, 2015

An act to amend Sections 201, 5000, ~~and 5015.6~~ 5015.6, 7000.5, 7011, and 7071.6 of, ~~and~~ to add Sections 312.2, 328, and 5100.5 to, *and to repeal Section 7067.5 of*, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 467, as amended, Hill. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing law authorizes the department to levy a pro rata share of the department's administrative expenses against any of these constituent agencies at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance.

This bill would eliminate the requirement that the levy described above be at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance, and would instead require the levy to be approved by the Legislature.

Existing law requires an agency within the department to investigate a consumer accusation or complaint against a licensee and, where appropriate, the agency is authorized to impose disciplinary action against a licensee. Under existing law, an agency within the department

may refer a complaint to the Attorney General or Office of Administrative Hearings for further action.

This bill would require the Attorney General to submit a report to the department, the Governor, and the appropriate policy committees of the Legislature, on or before January 1, 2018, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to accusation matters relating to consumer complaints against a person whose profession or vocation is licensed by an agency within the department.

Existing law creates the Division of Investigation within the department and requires investigators who have the authority of peace officers to be in the division to investigate the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.

This bill would, in order to implement the Consumer Protection Enforcement Initiative of 2010, require the Director of Consumer Affairs, through the Division of Investigation, to implement “Complaint Prioritization Guidelines” for boards to utilize in prioritizing their complaint and investigative workloads and to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

Under existing law, the California Board of Accountancy within the department is responsible for the licensure and regulation of accountants and is required to designate an executive officer. Existing law repeals these provisions on January 1, 2016.

This bill would extend the repeal date to January 1, 2020.

Existing law authorizes the California Board of Accountancy, after notice and hearing, to revoke, suspend, or refuse to renew any permit or certificate, as specified, or to censure the holder of that permit or certificate for unprofessional conduct.

This bill would additionally authorize the board, after notice and hearing, to permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a licence for unprofessional conduct. This bill would authorize a licensee to petition the board for reduction of penalty or reinstatement of the privilege, as specified, and would provide that failure to comply with any restriction or limitation imposed by the board is grounds for revocation of the license.

Under existing law, the Contractors’ State License Law, the Contractors’ State License Board is responsible for the licensure and

regulation of contractors and is required to appoint a registrar of contractors. Existing law repeals these provisions establishing the board and requiring it to appoint a registrar on January 1, 2016.

This bill would extend these repeal dates to January 1, 2020.

Existing law requires every applicant for an original license, the reactivation of an inactive license, or the reissuance or reinstatement of a revoked license to evidence financial solvency, as specified, and requires the registrar to deny the application of any applicant who fails to comply with that requirement. Existing law, as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, requires the applicant or licensee to file or have on file a contractor's bond in the sum of \$12,500.

This bill would repeal that evidence of financial solvency requirement and would instead require that bond to be in the sum of \$15,000.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 201 of the Business and Professions Code
2 is amended to read:
3 201. (a) (1) A charge for the estimated administrative expenses
4 of the department, not to exceed the available balance in any
5 appropriation for any one fiscal year, may be levied in advance on
6 a pro rata share basis against any of the boards, bureaus,
7 commissions, divisions, and agencies, with the approval of the
8 Legislature.
9 (2) The department shall submit a report of the accounting of
10 the pro rata calculation of administrative expenses to the
11 appropriate policy committees of the Legislature on or before July
12 1, 2015, and on or before July 1 of each subsequent year.
13 (b) The department shall conduct a one-time study of its current
14 system for prorating administrative expenses to determine if that
15 system is the most productive, efficient, and cost-effective manner
16 for the department and the agencies comprising the department.
17 The study shall include consideration of whether some of the
18 administrative services offered by the department should be
19 outsourced or charged on an as-needed basis and whether the
20 agencies should be permitted to elect not to receive and be charged
21 for certain administrative services. The department shall include

1 the findings in its report pursuant to paragraph (2) of subdivision
2 (a) that it is required to submit on or before July 1, 2015.

3 SEC. 2. Section 312.2 is added to the Business and Professions
4 Code, to read:

5 312.2. (a) The Attorney General shall submit a report to the
6 department, the Governor, and the appropriate policy committees
7 of the Legislature on or before January 1, 2018, and on or before
8 January 1 of each subsequent year that includes, at a minimum,
9 all of the following for the previous fiscal year for each constituent
10 entity within the department represented by the Licensing Section
11 and Health Quality Enforcement Section of the Office of the
12 Attorney General:

13 (1) The number of accusation matters referred to the Attorney
14 General.

15 (2) The number of accusation matters rejected for filing by the
16 Attorney General.

17 (3) The number of accusation matters for which further
18 investigation was requested by the Attorney General.

19 (4) The number of accusation matters for which further
20 investigation was received by the Attorney General.

21 (5) The number of accusations filed by each constituent entity.

22 (6) The number of accusations a constituent entity withdraws.

23 (7) The number of accusation matters adjudicated by the
24 Attorney General.

25 (b) The Attorney General shall also report all of the following
26 for accusation matters adjudicated within the previous fiscal year
27 for each constituent entity of the department represented by the
28 Licensing Section and Health Quality Enforcement Section:

29 (1) The average number of days from the Attorney General
30 receiving an accusation referral to when an accusation is filed by
31 the constituent entity.

32 (2) The average number of days to prepare an accusation for a
33 case that is rereferred to the Attorney General after further
34 investigation is received by the Attorney General from a constituent
35 entity or the Division of Investigation.

36 (3) The average number of days from an agency filing an
37 accusation to the Attorney General transmitting a stipulated
38 settlement to the constituent entity.

1 (4) The average number of days from an agency filing an
2 accusation to the Attorney General transmitting a default decision
3 to the constituent entity.

4 (5) The average number of days from an agency filing an
5 accusation to the Attorney General requesting a hearing date from
6 the Office of Administrative Hearings.

7 (6) The average number of days from the Attorney General's
8 receipt of a hearing date from the Office of Administrative
9 Hearings to the commencement of a hearing.

10 (c) A report to be submitted pursuant to subdivision (a) shall
11 be submitted in compliance with Section 9795 of the Government
12 Code.

13 SEC. 3. Section 328 is added to the Business and Professions
14 Code, to read:

15 328. In order to implement the Consumer Protection
16 Enforcement Initiative of 2010, the director, through the Division
17 of Investigation, shall implement "Complaint Prioritization
18 Guidelines" for boards to utilize in prioritizing their respective
19 complaint and investigative workloads. The guidelines shall be
20 used to determine the referral of complaints to the division and
21 those that are retained by the health care boards for investigation.

22 SEC. 4. Section 5000 of the Business and Professions Code is
23 amended to read:

24 5000. (a) There is in the Department of Consumer Affairs the
25 California Board of Accountancy, which consists of 15 members,
26 7 of whom shall be licensees, and 8 of whom shall be public
27 members who shall not be licentiates of the board or registered by
28 the board. The board has the powers and duties conferred by this
29 chapter.

30 (b) The Governor shall appoint four of the public members, and
31 the seven licensee members as provided in this section. The Senate
32 Committee on Rules and the Speaker of the Assembly shall each
33 appoint two public members. In appointing the seven licensee
34 members, the Governor shall appoint individuals representing a
35 cross section of the accounting profession.

36 (c) This section shall remain in effect only until January 1, 2020,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2020, deletes or extends that date.

39 (d) Notwithstanding any other provision of law, the repeal of
40 this section renders the board subject to review by the appropriate

1 policy committees of the Legislature. However, the review of the
2 board shall be limited to reports or studies specified in this chapter
3 and those issues identified by the appropriate policy committees
4 of the Legislature and the board regarding the implementation of
5 new licensing requirements.

6 SEC. 5. Section 5015.6 of the Business and Professions Code
7 is amended to read:

8 5015.6. The board may appoint a person exempt from civil
9 service who shall be designated as an executive officer and who
10 shall exercise the powers and perform the duties delegated by the
11 board and vested in him or her by this chapter.

12 This section shall remain in effect only until January 1, 2020,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2020, deletes or extends that date.

15 SEC. 6. Section 5100.5 is added to the Business and Professions
16 Code, to read:

17 5100.5. (a) After notice and hearing the board may, for
18 unprofessional conduct, permanently restrict or limit the practice
19 of a licensee or impose a probationary term or condition on a
20 license, which prohibits the licensee from performing or engaging
21 in any of the acts or services described in Section 5051.

22 (b) A licensee may petition the board pursuant to Section 5115
23 for reduction of penalty or reinstatement of the privilege to engage
24 in the service or act restricted or limited by the board.

25 (c) The authority or sanctions provided by this section are in
26 addition to any other civil, criminal, or administrative penalties or
27 sanctions provided by law, and do not supplant, but are cumulative
28 to, other disciplinary authority, penalties, or sanctions.

29 (d) Failure to comply with any restriction or limitation imposed
30 by the board pursuant to this section is grounds for revocation of
31 the license.

32 (e) For purposes of this section, both of the following shall
33 apply:

34 (1) “Unprofessional conduct” includes, but is not limited to,
35 those grounds for discipline or denial listed in Section 5100.

36 (2) “Permanently restrict or limit the practice of” includes, but
37 is not limited to, the prohibition on engaging in or performing any
38 attestation engagement, audits, or compilations.

39 SEC. 7. Section 7000.5 of the Business and Professions Code
40 is amended to read:

1 7000.5. (a) There is in the Department of Consumer Affairs
2 a Contractors' State License Board, which consists of 15 members.

3 (b) Notwithstanding any other provision of law, the repeal of
4 this section renders the board subject to review by the appropriate
5 policy committees of the Legislature.

6 (c) This section shall remain in effect only until January 1, ~~2016,~~
7 2020, and as of that date is repealed, unless a later enacted statute,
8 that is enacted before January 1, ~~2016,~~ 2020, deletes or extends
9 that date.

10 *SEC. 8. Section 7011 of the Business and Professions Code is*
11 *amended to read:*

12 7011. (a) The board, by and with the approval of the director,
13 shall appoint a registrar of contractors and fix his or her
14 compensation.

15 (b) The registrar shall be the executive officer and secretary of
16 the board and shall carry out all of the administrative duties as
17 provided in this chapter and as delegated to him or her by the
18 board.

19 (c) For the purpose of administration of this chapter, there may
20 be appointed a deputy registrar, a chief reviewing and hearing
21 officer, and, subject to Section 159.5, other assistants and
22 subordinates as may be necessary.

23 (d) Appointments shall be made in accordance with the
24 provisions of civil service laws.

25 (e) This section shall remain in effect only until January 1, ~~2016,~~
26 2020, and as of that date is repealed, unless a later enacted statute,
27 that is enacted before January 1, ~~2016,~~ 2020, deletes or extends
28 that date.

29 *SEC. 9. Section 7067.5 of the Business and Professions Code*
30 *is repealed.*

31 ~~7067.5. Every applicant for an original license, or for the~~
32 ~~reactivation of an inactive license, or for the reissuance or~~
33 ~~reinstatement of a revoked license shall possess and every such~~
34 ~~applicant, other than one applying under Section 7029 unless~~
35 ~~required by the registrar, shall evidence financial solvency. The~~
36 ~~registrar shall deny the application of any applicant who fails to~~
37 ~~comply with this section. For purposes of this section financial~~
38 ~~solvency shall mean that the applicant's operating capital shall~~
39 ~~exceed two thousand five hundred dollars (\$2500).~~

1 ~~The applicant shall provide answers to questions contained in a~~
2 ~~standard form of questionnaire as required by the registrar relative~~
3 ~~to his financial ability and condition and signed by the applicant~~
4 ~~under penalty of perjury.~~

5 ~~In any case in which further financial information would assist~~
6 ~~the registrar in an investigation, the registrar may obtain such~~
7 ~~information or may require any licensee or applicant under~~
8 ~~investigation pursuant to this chapter to provide such additional~~
9 ~~financial information as the registrar may deem necessary.~~

10 ~~The financial information required by the registrar shall be~~
11 ~~confidential and not a public record, but, where relevant, shall be~~
12 ~~admissible as evidence in any administrative hearing or judicial~~
13 ~~action or proceeding.~~

14 ~~The registrar may destroy any financial information which has~~
15 ~~been on file for a period of at least three years.~~

16 ~~SEC. 10. Section 7071.6 of the Business and Professions Code~~
17 ~~is amended to read:~~

18 ~~7071.6. (a) The board shall require as a condition precedent~~
19 ~~to the issuance, reinstatement, reactivation, renewal, or continued~~
20 ~~maintenance of a license, that the applicant or licensee file or have~~
21 ~~on file a contractor's bond in the sum of twelve fifteen thousand~~
22 ~~five hundred dollars (\$12,500). (\$15,000).~~

23 ~~(b) Excluding the claims brought by the beneficiaries specified~~
24 ~~in subdivision (a) of Section 7071.5, the aggregate liability of a~~
25 ~~surety on claims brought against a bond required by this section~~
26 ~~shall not exceed the sum of seven thousand five hundred dollars~~
27 ~~(\$7,500). The bond proceeds in excess of seven thousand five~~
28 ~~hundred dollars (\$7,500) shall be reserved exclusively for the~~
29 ~~claims of the beneficiaries specified in subdivision (a) of Section~~
30 ~~7071.5. However, nothing in this section shall be construed so as~~
31 ~~to prevent any beneficiary specified in subdivision (a) of Section~~
32 ~~7071.5 from claiming or recovering the full measure of the bond~~
33 ~~required by this section.~~

34 ~~(c) No bond shall be required of a holder of a license that has~~
35 ~~been inactivated on the official records of the board during the~~
36 ~~period the license is inactive.~~

37 ~~(d) Notwithstanding any other provision of law, as a condition~~
38 ~~precedent to licensure, the board may require an applicant to post~~
39 ~~a contractor's bond in twice the amount required pursuant to~~

1 subdivision (a) until the time that the license is renewed, under the
2 following conditions:

3 (1) The applicant has either been convicted of a violation of
4 Section 7028 or has been cited pursuant to Section 7028.7.

5 (2) If the applicant has been cited pursuant to Section 7028.7,
6 the citation has been reduced to a final order of the registrar.

7 (3) The violation of Section 7028, or the basis for the citation
8 issued pursuant to Section 7028.7, constituted a substantial injury
9 to the public.

O